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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/644,074	08/19/2003	Oskar Eigenmann	U 014770-5	4623
7590	09/21/2005		EXAMINER	
Ladas & Parry 26 West 61 Street New York, NY 10023			LANGDON, EVAN H	
			ART UNIT	PAPER NUMBER
			3654	

DATE MAILED: 09/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/644,074	EIGENMANN, OSKAR	
	Examiner	Art Unit	
	Evan H. Langdon	3654	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 June 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) 2 and 10-16 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 3-9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>9/29/03</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

Applicant's election without traverse of Invention II, claims 1 and 3-9, in the reply filed on 10 June 2005 is acknowledged. Claims 2 and 10-16 are withdrawn from consideration.

Claim Objections

Claim 1 is objected to because of the following informalities:

Line 8, "a elongate rocker" should be changed to ---an elongate rocker---.

Appropriate correction is required.

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1 and 3-9 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-7 of U.S. Patent No. 6,869,002 B2.

Although the conflicting claims are not identical, they are not patentably distinct from each other

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because claims 1 and 3-9 of the present application can be gleaned from claims 1-7 of U.S.

Patent No. 6,869,002 B2.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

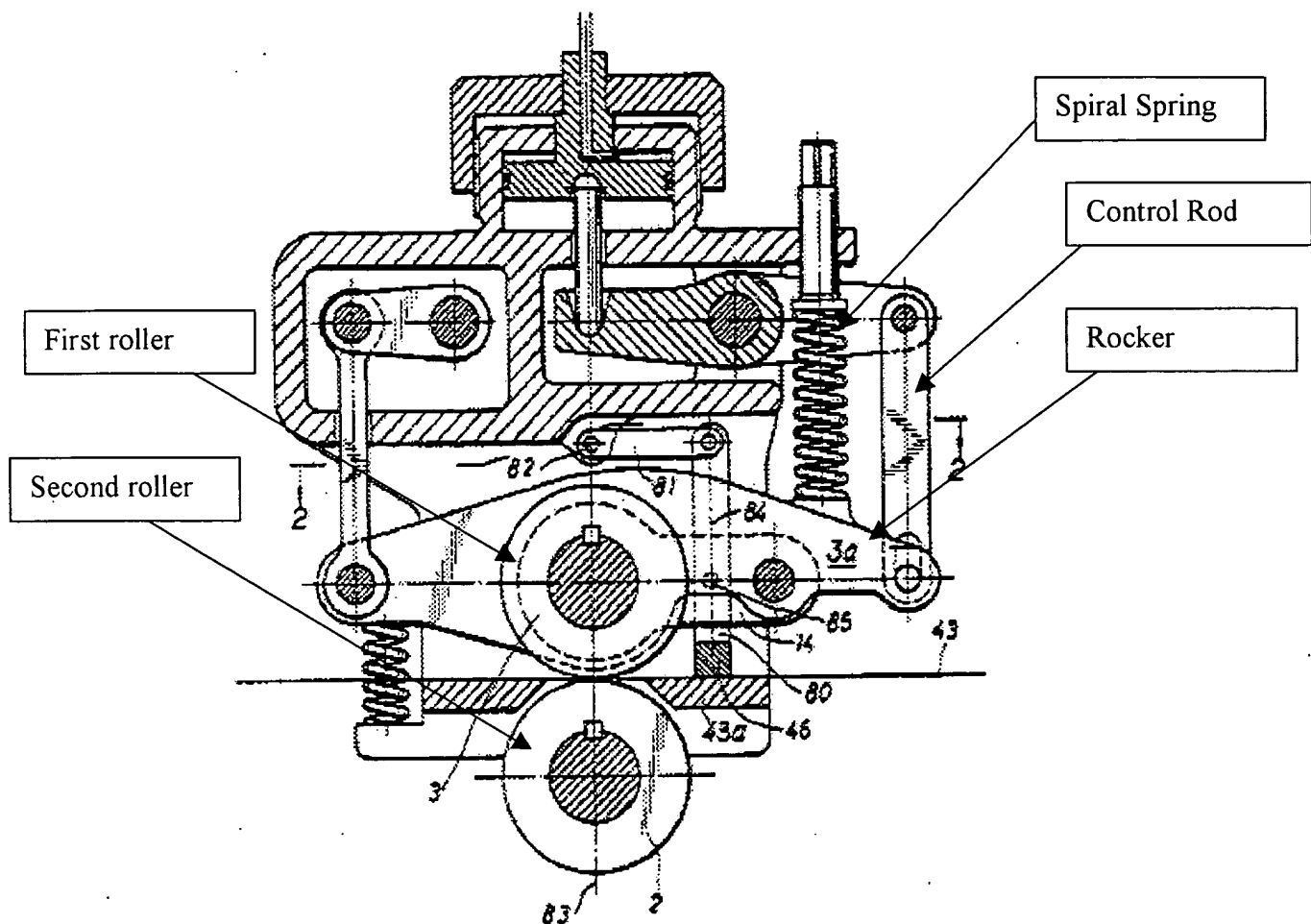
(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 1 is rejected under 35 U.S.C. 103(a) as being unpatentable over Messner (US 5,163,595) in view of Gentile et al. (US 5,868,296).

Messner discloses an apparatus for an intermittent feeding of a strip shaped blank to a press equipped with tools for a intermittent working of the strip shaped blank the feeding apparatus having a housing, a first feeding roller 3 and a second feeding roller 2, which feeding rollers are adapted to accommodate the strip shaped blank 43 arranged between same to be fed, which first feeding roller includes a longitudinal center axis and is designed symmetrically relative to a plane of symmetry extending perpendicularly to the longitudinal center axis; and having further an elongate rocker 3a which includes a first end and a second end which second end is located opposite the first end; which first feeding roller is supported for rotation in the rocker; which second feeding roller is arranged on a roller shaft and is rigidly connected thereto; which rocker is arranged at its first end on a first end area of a rocker shaft and is rigidly

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connected thereto; which rocker shaft is mounted for rotation at a second end area opposite the first end area in the housing so that the rocker 3a is supported in a overhung state; further having a means for a lifting off of a feeding roller, which means include a control rod (Fig. 1) which is pivotally mounted to the second end of the rocker, which control rod includes a longitudinal center axis; further having a feeding roller pressing on device which includes a spiral pressing spring which rests at one of its ends on the rocker; which spiral pressing spring includes a further longitudinal centre axis; wherein the control rod which is pivotally mounted to the rocker and the spiral spring which rests on the rocker and the first feeding roller 3 are arranged relative to each other in such positions, that the longitudinal center axis of the control rod and the longitudinal center axis of the spiral pressure spring define a geometrical plane which coincides with said plane of symmetry of the first feeding roller (see below).



Gentile teaches an apparatus for an intermittent feeding of a strip shaped blank to a press equipped with tools for a intermittent working of the strip shaped blank the feeding apparatus having a housing, a first feeding roller 16 and a second feeding roller 14, which feeding rollers are adapted to accommodate the strip shaped blank 7 arranged between same to be fed, and having a first intermittently operating electric servomotor 13 which is drivingly connected via shaft 18 to at least the first feeding roller 16.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the apparatus of Messner to include an intermittently servomotor as suggested by Gentile, to intermittently drive the first feeding roller.

Allowable Subject Matter

Claims 3-9 are rejected under the judicially created doctrine of obviousness-type double patenting, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims, and the filing of an appropriate Terminal Disclaimer to overcome the obviousness-type double patenting rejection.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Evan H. Langdon whose telephone number is (571)272-6948. The examiner can normally be reached on M-F 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kathy Matecki can be reached on (571) 272-6951. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



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